

EXHIBIT

DATE

4/9/13

SB

400

Senate Business, Labor and Economic Affairs Committee
Senator Elsie M. Arntzen

Dear Senator Arntzen, and Distinguished Members of the Committee,

I am writing in support of Senate Bill 400, dealing with implementing qualifications and training for individuals who assist in the recovery of bail fugitives on behalf of the sureties who posted bail for individuals charged with crimes in the State of Montana.

Please consider this to be a letter of intent to combine the licensing of an occupation through an existing board pursuant to Section 2-8-403 MCA. Senate Bill 400 deals with the training and practices of individuals who, in conjunction with bail bond sureties, recover individuals who are in violation of their court orders or their contracts with their surety, and who deliver such persons to the designated state entity. The occupational licensing of the "bail fugitive recovery agent," proposed in the new bill, can be combined with the Private Investigators, Private Security and Fire Entities, and Process Servers under Section 37-60-101 et seq. MCA.

Under the present statutes applicable to the posting, forfeiture and revocation of bonds in criminal proceeding before the courts of Montana, there are provisions permitting third party sureties to post a surety bonds on behalf of accused persons for their bail. These are set forth in 46-9-401 MCA. Under certain conditions set forth in the statute, there are times when the person for whom the surety bond was put in place, violates the conditions of his release with the court, or the conditions of his contract with the surety company. In these instances, it may become necessary for law enforcement or agents of the surety company to arrest the individual and, pursuant to the statutory provisions of 46-9-510 MCA, surrender the individual to the court, a peace officer or a detention facility.

At the present time, there are no guidelines in place requiring appropriate training for the agents of the surety who assist in the recovery of the individual who has violated the conditions of his bail or surety agreement. The purpose of SB 400 is to establish requirements for the surety agents, and those assisting such agents, in recovering or otherwise arresting individuals who have violated the condition of his bail or surety agreement and surrendering them to the appropriate state entity.

In the recovery of certain individuals who have violated the conditions or contract involving their bail with a court, there can arise issues which relate to the safety of the public. It is our belief that appropriate training and coordination with law enforcement would serve better to protect both the rights of the individuals and the public in general. The purpose of this legislation is to set forth such guidelines, under the auspices of the Department of Labor, so that the Department can implement the guidelines and certify the procedures and training for those assisting in the recovery of the individuals.

The individual recovery agents operate individually, in conjunction with other agents of the surety, and in cooperation with local law enforcement. Given the nature of the recovery process, that is recovering an individual who is avoiding a court appearance, or contractual obligation of his bail, there is, of necessity, a significant amount of independent judgments that must be exercised in the apprehension of the individual. At times, there are issues of safety of the individual bail fugitive, the bail recovery agent, or members of the public who may be with, assisting, or in simply the area of the individual bail fugitive.

At this time, while there are no specific rules for the certification of bail recovery agents, private investigators are permitted to engage in such practices, and, private investigators, those individuals are subject to the existing occupations qualifications of 37-60-101 et seq. MCA.

With the proposed bill, there is no degree to which the proposed licensing would restrict entry into this occupation other than for the reason of public health, safety, welfare or the common good. Indeed, the purpose of the bill is to set forth the training required for the occupation, so that an individual who acts as a bail fugitive recovery agent has the requisite skills. A copy of the proposed training requirements demonstrating the necessary skills is attached.

There are, under SB 400 minimum qualifications required for licensure which include that the individual be 18 years of age, not convicted of a felony or an offense in which a dangerous weapon was used, and completes the training required by the Department.

There would be no exceptions provided to existing practitioners, but they would be allowed, at the discretion of the Department, to demonstrate that they have received, prior to the enactment of this bill, sufficient training to meet the training requirements adopted by the Department.

At this point, while most states have some requirements dealing with the recovery of bail fugitives, the states with comprehensive legislation are North

Carolina and Washington.

At this time there are no regulations in place dealing with the training and certification of bail fugitive recovery agents, and there have been no previous efforts to regulate this occupation.

It is anticipated that there would be approximately 40 to 50 licenses issued under these guidelines. The present board in place for Private Investigators, under Title 37 Chapter 60 has been contacted and has the expertise to handle this licensing. That being the case, it is estimated that the projected annual licensing fee would be \$100.00.

I hope that this answers all of the questions of this committee, but I would be happy to respond to any questions.